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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,287	02/26/2002	Curtis A. Milton		4135

7590

12/19/2003

John Wiley Horton, Attorney
Pennington, Moore, Wilkinson,
Bell & Dunbar, P.A.
215 S. Monroe St., 2nd Floor
Tallahassee, FL 32301

EXAMINER

NGUYEN, TAM M

ART UNIT	PAPER NUMBER
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3764

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DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,287

Applicant(s)

MILTON, CURTIS A.

Examiner

Tam Nguyen

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Objections

1. Claim 5 is objected to because of the following informalities:

It appears that claim 5 should depend on claim 4, not claim 6.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffend (5,782,447).

2. As to claim 1, Hoffend discloses an anchor bracket comprising a rear wall (18), a front wall (16), a top wall (20), a clamping means (22,24) and at least one attach point proximate said front wall to allow attachment of a swimming exercise apparatus (see Fig. 4, & Col. 1, lines 66+).

3. As to claim 2, Hoffend discloses an anchor bracket as described above. Hoffend further discloses that the clamping means comprises an internally threaded hole and a threaded shaft capable of clamping the anchor to a lip of a swimming pool (see Fig. 4 & Col. 2, lines 41-44).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffend (5,782,447).

4. As to claim 3, Hoffend discloses an anchor bracket as described above (see discussion of claim 2). Hoffend further discloses that the shaft includes a handle (enlarged portion of the screw) but not a base as substantially claimed (see Fig. 4). The examiner takes Official Notice that the prior art includes clamps having threaded shafts with bases that are rotationally displaced relative to the shafts. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add such bases to Hoffend's threaded shafts so as to protect the pool edge while providing the anchor with a secure fit.

Claims 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mac Lennan (5,236, 404) in view of Hoffend (5,782,447).

5. As to claim 4, MacLennan discloses a swimming exercise device as substantially claimed but MacLennan's anchor bracket does not have the claimed structure (see Fig. 1). Hoffend discloses an anchor structure as substantially claimed (see Fig. 4). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to substitute MacLennan's anchor means (24) with Hoffend's anchor bracket means

since both anchor means are functionally equivalent in providing a sturdy support to the user and the latter anchor means does not require a pool ladder to be anchored.

6. As to claims 6 and 7, MacLennan and Hoffend disclose a swimming exercise device as substantially claimed as described above (see discussion of claim 4), except now, the bow (14) is connected directly to the anchor in cylindrical grooves (84,86) (see Fig. 4).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacLennan (5,236, 404) in view of Hoffend (5,782,447) and in further view of Milton (6,251,049).

7. As to claim 5, MacLennan and Hoffend disclose a modified swimming exercise device as described above (see discussion of claim 4). MacLennan's does not disclose that the bow (14) may bend substantially. Milton discloses a bow that may bend substantially as claimed. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to substitute MacLennan's bow with Milton's bow since the structures are considered to be functionally equivalent in providing as connection means for the belt harness to the anchoring means.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hohwart '416 discloses a swim harness attached to a pool anchor that is secured to the edge of the pool with a clamp (see Fig. 1).

Schmitt '096

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Hohwart '657

Yacoboski '863

Baldwin '641

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 703-305-0784. The examiner can normally be reached on M-F.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

December 11, 2003